



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: IBI Security Services, Inc.

File: B-231747.2

Date: July 19, 1988

DIGEST

Where a protest is dismissed as academic, there is no decision on the merits and, therefore, no basis on which the costs of filing and pursuing the protest may be recovered.

DECISION

IBI Security Services, Inc., seeks recovery of the costs of filing and pursuing its protest, including attorneys' fees, concerning solicitation No. 273-88-B-0008, issued by the National Institute of Environmental Health Services (NIEHS). In its protest, IBI contended that the solicitation was defective because bidders were not notified of their continuing obligation to pay union wages and benefits, and because there was no price adjustment clause for the contract's option years. We dismissed the protest as academic after NIEHS amended the solicitation to correct the two deficiencies.

We deny IBI's claim. Our authority to allow the recovery of the costs of filing and pursuing a protest is predicated on a determination by our Office that a solicitation, proposed award, or award of a contract does not comply with a statute or regulation. 31 U.S.C. § 3554(c)(1) (Supp. IV 1986). Where, as here, a protest becomes academic and we do not issue a decision on the merits, there is no basis for the award of costs. Rix Industries, Inc., et al., B-225176.3, et al., Mar. 30, 1987, 87-1 CPD ¶ 356; Monarch Painting Corp., B-220666.3, Apr. 23, 1986, 86-1 CPD ¶ 396.


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